

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:
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-v-	:
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SYDNEY SCALES,	:
	:
Defendants.	:
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19-cr-96 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

Yesterday, the Court conducted a Daubert hearing and heard oral argument on Scales' additional pretrial motions, ECF No. 164. The Court ruled regarding the motions as follows:

Scales' motion to preclude cell site evidence on Fed. R. Ev. 702 and Daubert grounds is denied with the following qualification: the government must present to the Court and defense counsel, in writing, at least one day before trial, a specific statement of the opinion the witness will give at trial and the basis for that opinion.

Scales' motion to preclude cell site evidence on Fed. R. Ev. 403 grounds is denied without prejudice to renew before or during trial.

The motion to sever the trials of Mr. Scales and Mr. Horge has already been granted, ECF No. 169.

Scales' motion to suppress evidence collected from Scales' cellphone is denied without prejudice to renew if the government

seeks to introduce into evidence material from the phone that falls into a category other than phone calls or text messages. The March 20 warrant provided probable cause to search the phone for calls or text messages and described the phone and such content to be searched with sufficient particularity.

Scales' motion to compel discovery relating to cellphone use at the MCC and the government's knowledge of and response to Scales' use of a contraband cellphone is denied. Scales did not establish the relevance of the requested discovery. Scales' other arguments regarding the government's 404(b) evidence of Scales' use of cellphones while at pretrial detention at MCC are more appropriately addressed in its motions in limine.

The Clerk of Court is directed to close the docket at ECF No. 164.

SO ORDERED.

Dated: New York, NY
July 4, 2021


JED S. RAKOFF, U.S.D.J.